

REMARKS

The Office Action mailed March 5 2009, has been carefully considered together with each of the references cited therein. The remarks presented herein are believed to be fully responsive to the Office Action. No new matter has been added. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Claim Rejections Under 35 USC § 103(a)

Claims 1, 5, 9-12, 15, 16, 18, and 22-24 stand rejected under 35 USC § 103(a) as being unpatentable over US Patent 5288581, Ziolo in view of US Patent 5502118, Macholdt et al. This rejection is respectfully traversed.

It is respectfully submitted the Office has not carried its burden of providing a prima facie case of obviousness against the instantly claimed invention. Applicants, claim, in independent claims 1 and 12, the following which are here in below reproduced for the convenience of the Office.

1. (Currently Amended) A process for controlling the charge of an electrophotographic toner, electrophotographic developer, powder coating material, electret material or a chargeable material in an electrostatic separation process comprising the step of adding at least one charge control agent to the electrophotographic toner, electrophotographic developer, powder coating material electric material or chargeable material, wherein the at least one charge control agent is a layered double hydroxide salt comprising a combination of trivalent and divalent and optionally monovalent metal cations having hydroxyl groups wherein the number of hydroxyl groups in the layered double hydroxide salt is from 1.8 to 2.2 times the sum of all the metal cations wherein the layered double hydroxide salt contains Mg^{2+} and Al^{3+} , and one or more organic anions A selected from the group consisting of benzilic acid, naphthalenedisulfonic acid, naphthalenedicarboxylic acid, hydroxynaphthoic acid, octanedicarboxylic acid, decanedicarboxylic acid, dodecanedicarboxylic acid, tetradecanedicarboxylic acid, hexadecanedicarboxylic acid, octadecanedicarboxylic acid, naphthalenetetracarboxylic acid, sulfosuccinic acid (C_6-C_{20})-alkyl monoester, sulfosuccinic acid (C_6-C_{22})-fluoroalkyl monoester, and an anion of a $C_{12}-C_{44}$ fatty acid.

12. (Currently Amended) An electrophotographic toner, powder or powdercoating material, comprising from 30% to 99.99% by weight of a binder, from 0.01% to 50% by weight of at least one layered double hydroxide salt comprising a calcined hydrotalcite or an uncalcined hydrotalcite, and one or more organic anions A selected from the group consisting of benzoic acid, naphthalenedisulfonic acid, naphthalenedicarboxylic acid, hydroxynaphthoic acid, octanedicarboxylic acid, decanedicarboxylic acid, dodecanedicarboxylic acid, tetradecanedicarboxylic acid, hexadecanedicarboxylic acid, octadecanedicarboxylic acid, naphthalenetetracarboxylic acid, sulfosuccinic acid (C₆-C₂₀)-alkyl monoester, sulfosuccinic acid (C₆-C₂₂)-fluoroalkyl monoester, and an anion of a C₁₂-C₄₄ fatty acid, wherein the weight percentages are based on the total weight of the electrophotographic toner, powder or powdercoating material.

Both Ziolo and Macholdt et al. have been discussed at length in the several previous Office Actions and each time the Office has found Applicants' arguments convincing. In the Office Action dated 09/16/2008 Applicants' arguments with respect to the rejection of claims 1, 3, 5-6, 8, 10-11, and 22-24 under Macholdt ('118) and Ogawa were fully considered and found persuasive. Therefore, the rejection was withdrawn. In the instant Office Action dated 03/05/2009 Applicants' arguments with respect to the rejection of claims 1, 5, 9-12, 15, 16, 18 and 22-24 under Ziolo ('581) and Michel have fully been considered and found persuasive. Therefore, the rejection has been withdrawn.

Respectfully stated, considering the combined teachings of either of both Ziolo and Macholdt document there is no reason why a combination of these documents would, to one with ordinary skill in the art, arrive at the instantly claimed inventions.

Courteously and specifically stated (as has been done in previous in response to previous Office Actions) Macholdt '118 discloses polyester moieties rather than free dicarboxylic acids. Additionally, Applicants have previously put forward the position (and the Office has admitted) that Ziolo does not disclose the specific organic anions of the instant invention.

Thus, an ordinary artisan having a knowledge of both Macholdt and Ziolo could not arrive at the instantly claimed invention because the combination of those teachings specifically leads the artisan with ordinary skill to polyester moities and organic anions that are not present in the instant invention. Any reading of Macholdt and Ziolo that allows one with ordinary skill in the art to arrive at the instantly claimed invention is in Applicants' courteous position the product of impermissible hindsight gained by a knowledge of Applicants' invention.

Specifically, Macholdt and Ziolo, in combination, fail to teach, disclose or suggest specifically claimed elements of Applicants invention. It is beyond contention that an invention can not be held obvious under § 103 unless the reference or reference combination teaches, discloses or suggests each and every aspect of the claimed invention. Here, Macholdt and Ziolo, combined, do not put disclose the necessary scientific information necessary for the ordinary artisan to arrive at the claimed inventions. Simply put, Macholdt does not disclose dicarboxylic acids while Ziolo has not provided the ordinary artisan with a knowledge of specifically claimed organic anions.

For at least these reasons, it is respectfully contended that claims 1, 5, 9-12, 15, 16, 18, and 22-24 can not be made obvious by any combination of Ziolo and Macholdt et al.

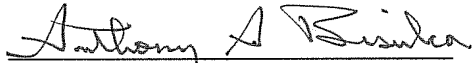
Claim 3 stands rejected under 35 USC § 103(a) as being unpatentable over US Patent 5288581, Ziolo in view of US Patent 5502118, Macholdt et al. as applied to claim 1 above, and further in view of US Patent 5445911, Russell et al. This rejection is respectfully traversed.

For at least the reasons advanced with respect to the rejection of claims 1, 5, 9-12, 15, 16, 18 and 22-24 as obvious over Ziolo in view of Macholdt et al. it is respectfully contended that claim 3 can not be made obvious by any combination of Ziolo, Machdolt and Russell et al.

In view of the foregoing, it is respectfully contended that the 35 USC § 103 rejections have been traversed. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

In view of the forgoing amendments and remarks, the present application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he/she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,

A handwritten signature in cursive script, reading "Anthony A. Bisulca", written in black ink.

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